

Chapter 246-215 WAC, Food Service Proposed Revision

Selected Definitions

“Donated food distributing organization” means a charitable nonprofit organization under section 501(c) of the federal internal revenue code that distributes food free of charge and includes any nonprofit organization that distributes food free of charge to the public.

“Food establishment” does not mean:

- (a) An establishment that offers only non-potentially hazardous foods prepackaged in a licensed food establishment or food processing plant;
- (b) An establishment that offers only non-potentially hazardous, non-ready-to-eat, minimally cut, unprocessed fruits and vegetables;
- (c) A food processing plant or other establishment for activities regulated by the Washington State Department of Agriculture or the U.S. Department of Agriculture;
- (d) An establishment that offers only non-potentially hazardous, ready-to-eat foods produced in a licensed food establishment or food processing plant (such as premixed soda pop, powdered creamer, pretzels, cookies, doughnuts, cake, or meat jerky) that are served without direct hand contact, with limited portioning, directly onto or into sanitary single-use articles or single-service articles from the original package;
- (e) An establishment that offers only non-potentially hazardous hot beverages (such as coffee, hot tea, or hot apple cider) served directly into sanitary single-service articles;
- (f) An establishment that offers only dry, non-potentially hazardous, non-ready-to-eat foods (such as dry beans, dry grains, in-shell nuts, coffee beans, tea leaves, or herbs for tea);
- (g) An establishment that offers only prepackaged frozen confections produced in a licensed food establishment or food processing plant;
- (h) A residential kitchen in a private home or other location if only foods that are non-potentially hazardous baked goods are prepared and wrapped in a sanitary manner for sale or service by a nonprofit organization operating for religious, charitable, or educational purposes and if the consumer is informed by a clearly visible placard at the sales or service location that the foods are prepared in a kitchen that is not inspected by a regulatory authority;
- (i) A location where foods that are prepared as specified in subparagraph (h) of this definition are sold or offered for human consumption;
- (j) A kitchen in a private home operated as a family day-care provider as defined in RCW 74.15.020(1)(f) or an adult family home as defined in RCW 70.128.010, used only to prepare food for residents and other people for whom the operation is licensed to provide care;
- (k) A private home that receives catered or home-delivered food;
- (l) A private home or other location used for a private event;
- (m) A donor kitchen; and
- (n) A location used for a potluck.

“Potentially hazardous food”:

(a) Means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting:

- (i) The rapid and progressive growth of infectious or toxigenic microorganisms;
- (ii) The growth and toxin production of *Clostridium botulinum*; or
- (iii) In raw shell eggs, the growth of *Salmonella enteritidis*.

(b) Includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth as specified under Subparagraph (a) of this definition.

(c) Does not include:

- (i) An air-cooled hard-boiled egg with shell intact, or a shell egg that is not hard-boiled, but has been treated to destroy all viable *Salmonellae*;
- (ii) A food with an a_w value of 0.85 or less;
- (iii) A food with a pH level of 4.6 or below when measured at 24°C (75°F);
- (iv) A food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;
- (v) A food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of *S. Enteritidis* in eggs or *C. botulinum* can not occur, such as a food that has an a_w and a pH that are above the levels specified under Subparagraphs (c)(ii) and (iii) of this definition and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or
- (vi) A food that does not support the growth of microorganisms as specified under Subparagraph (a) of this definition even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness.

“Potluck” means an event where:

- (a) People are gathered to share food;
- (b) People attending are expected to bring food to share;
- (c) There is no compensation provided to people for bringing food to the event;
- (d) There is no charge for any food or beverage provided at the event; and
- (e) The event is not conducted for commercial purposes.

“Regulatory authority” means the local, state, or federal enforcement body or authorized representative having jurisdiction over the food establishment. The local board of health, acting through the local health officer, is the regulatory authority for the activity of a food establishment not otherwise under the jurisdiction of a state or federal agency by law.